

JLARC's Performance Audit of the Certificate of Need Program

Presentation to the Certificate of Need Task Force
June 28, 2006

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Presentation Overview

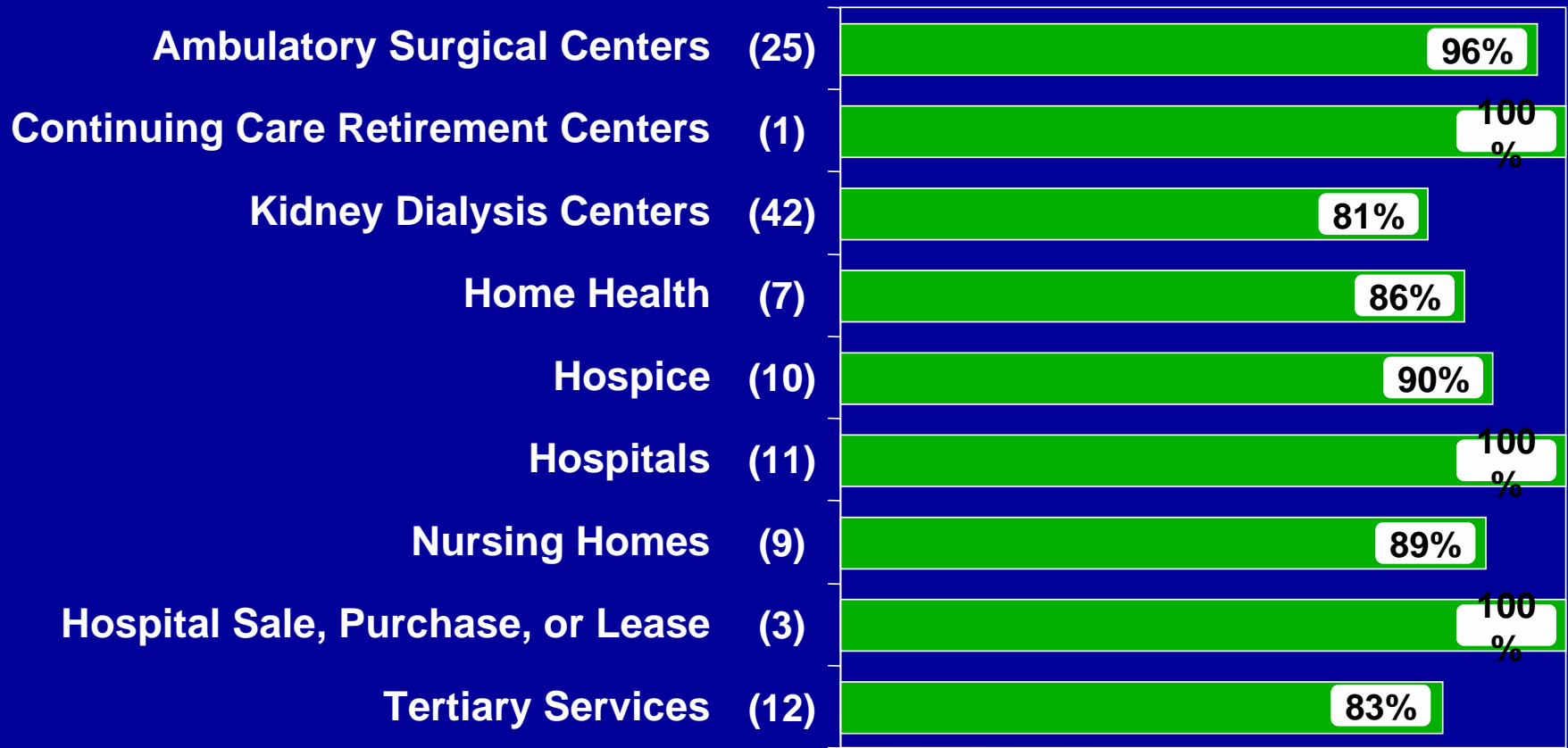
- Background on Certificate of Need
- JLARC's study mandate and approach
- Four areas of findings and recommendations:
 - Process for reviewing applications;
 - Consistency of decisions with statute and each other;
 - Monitoring of approved projects;
 - Agency measurement and reporting of the program's performance.

Background on Certificate of Need

What is Certificate of Need?

- Created in 1971 out of concern about how the number and type of health care facilities affect health care costs
- The Department of Health reviews proposals for certain health care facilities and services to ensure they:
 - Meet a community need;
 - Will provide quality health care services;
 - Are financially feasible; and
 - Will foster containment of health care costs.

From 2000 through 2005, Most Applications Were Approved



Note: Number in parenthesis refers to total number of finalized decisions, not including open appeals.

Program Funding

- The program is solely supported by application fees.
- The number of applications filed each year varies, so funding can be unpredictable.
- In 2003-2005 biennium, program expenditures totaled almost \$1.3 million.

JLARC Study Mandate and Approach

Study Mandated by 2005 Legislation (ESSHB 1688)

- JLARC to conduct a performance audit of the Department of Health's administration of the Certificate of Need program
- Certificate of Need Task Force created to:
 - Study and prepare recommendations on improving and updating Certificate of Need
 - Consider results of JLARC's audit when developing recommendations

Study Approach

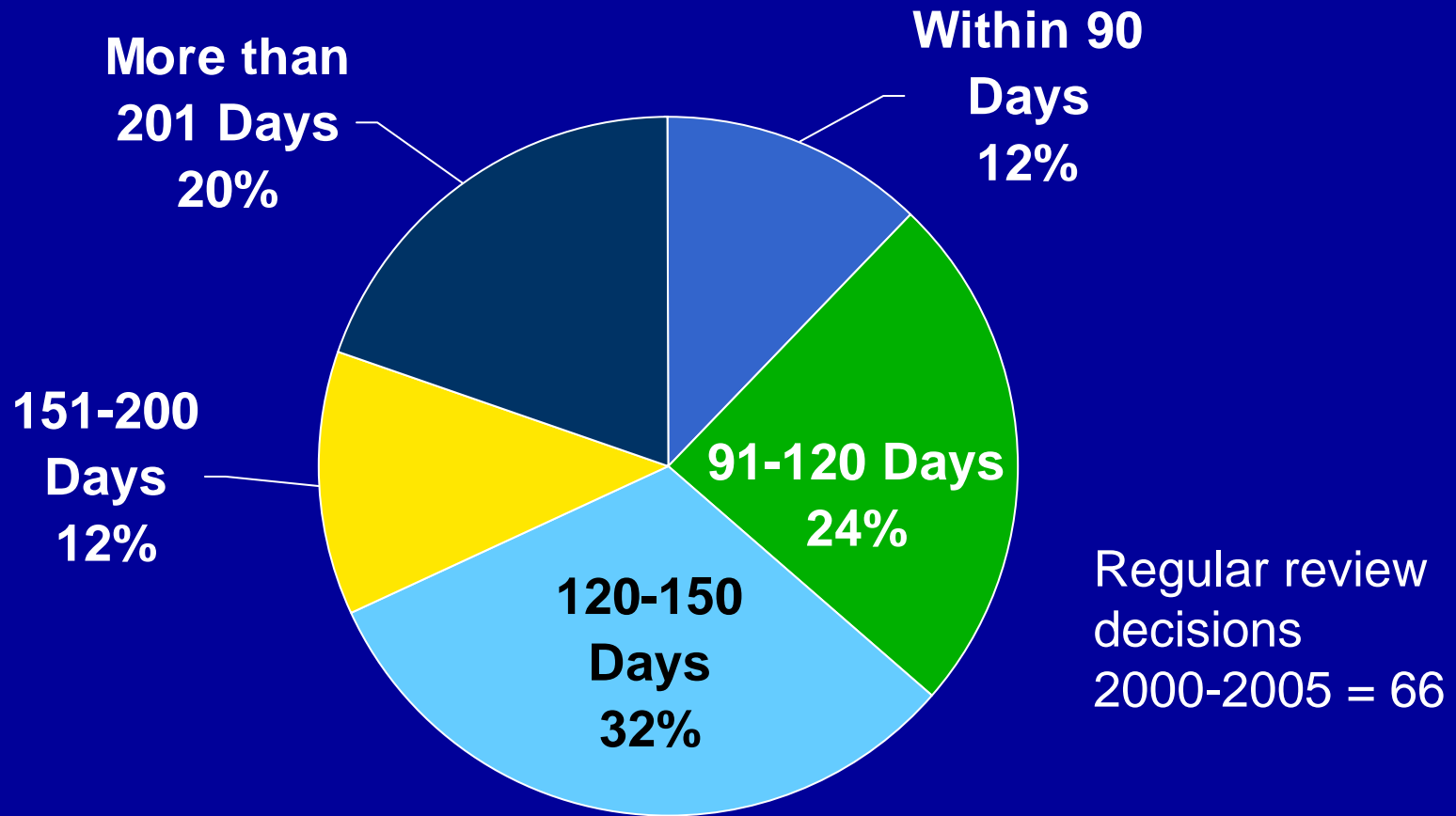
- Built database of all Certificate of Need decisions reached from 2000 through 2005
- In-depth review of 21 case study applications
- Reviewed practices in other states
- Interviewed agency staff and monitored Certificate of Need Task Force meetings

1st Area of Findings and
Recommendations:
**Process for Reviewing
Applications**

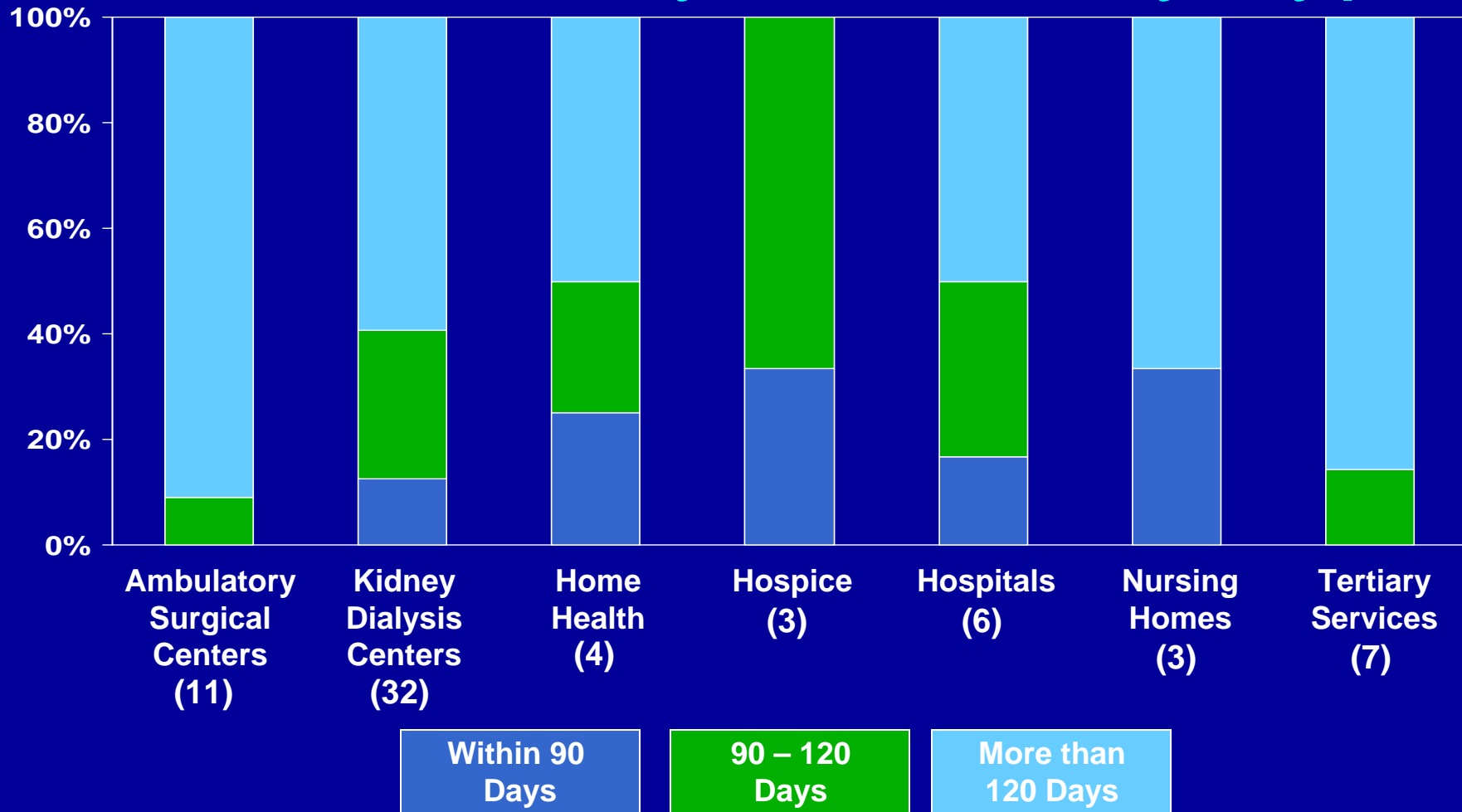
DOH's Process for Reviewing Applications

- Statute and rule define steps for reviewing applications and maximum amount of time for each step.
- Two major statutory milestones:
 - Number of days between when application is submitted and when staff screen application and request additional information (15 working days)
 - Number of days between Beginning of Review and when DOH issues its decision (90 calendar days plus possible 30-day extension)

Nearly 2/3 of Decisions Reached After 120 Days



Percent of Decisions Reached within 120 Days Varies by Type



Finding and Recommendation on Timeliness of Decisions

Finding: The Department of Health is not meeting statutory timelines.

Recommendation: The Department of Health should identify strategies for meeting established statutory timelines.

DOH and OFM concur.

2nd Area of Findings and
Recommendations:

**Consistency of Decisions
with Statute and Each
Other**

Consistency of Decisions with Statute?

- Statute provides 13 criteria for DOH to use in making Certificate of Need decisions.
- Staff consistently apply several, including:
 - Need for services
 - Quality of care to be provided
 - Efficiency and appropriate use of existing services and facilities
 - Whether hospital applicants meet regional average charity care levels

Some Statutory Criteria Not Fully Applied

- Extent to which the proposed project will be accessible to all residents of service area
- Impact of project on cost of and charges for providing health services in the community
- Feasibility of possible alternatives to the project

Finding and Recommendation on Use of Statutory Criteria

Finding: Program staff are not fully applying all of the criteria established in statute.

Recommendation: DOH should identify strategies to ensure that all statutory criteria for reviewing Certificate of Need applications are fully applied. DOH may also recommend changes to criteria.

DOH and OFM concur.

Consistency in Information Used?

- Three main sources of information:
 - Applicants
 - Interested parties and members of the community
 - Research done by Certificate of Need staff, including use of data collected by other Washington State programs - *but* more information is available on facilities and services that are regulated than those that are not

Finding and Recommendation on Sources of Information

Finding: More information is available for facilities and services that are licensed than for those that are not licensed.

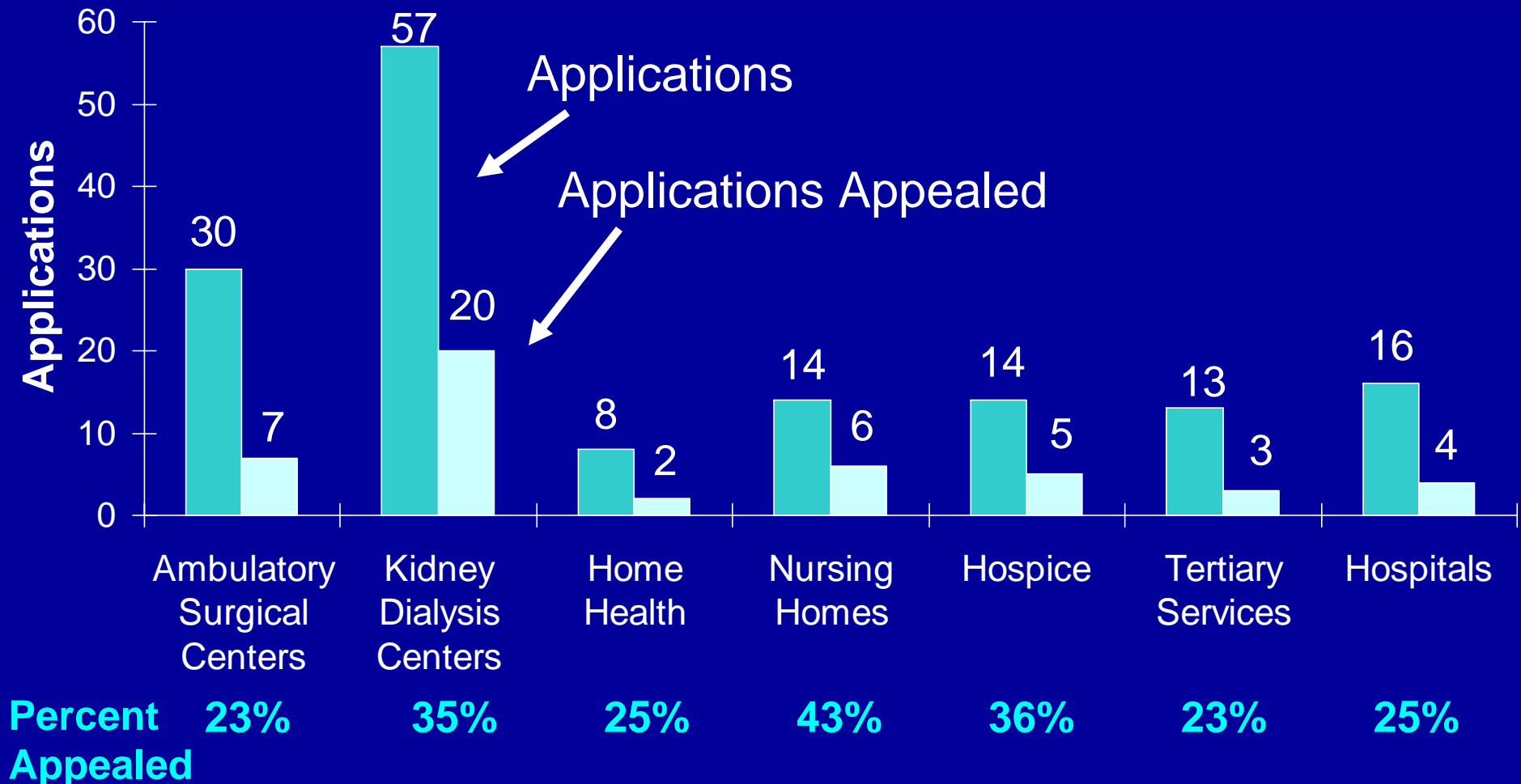
Recommendation: The Legislature should consider establishing consistent basic reporting requirements for all services and facilities subject to Certificate of Need review.

DOH and OFM concur.

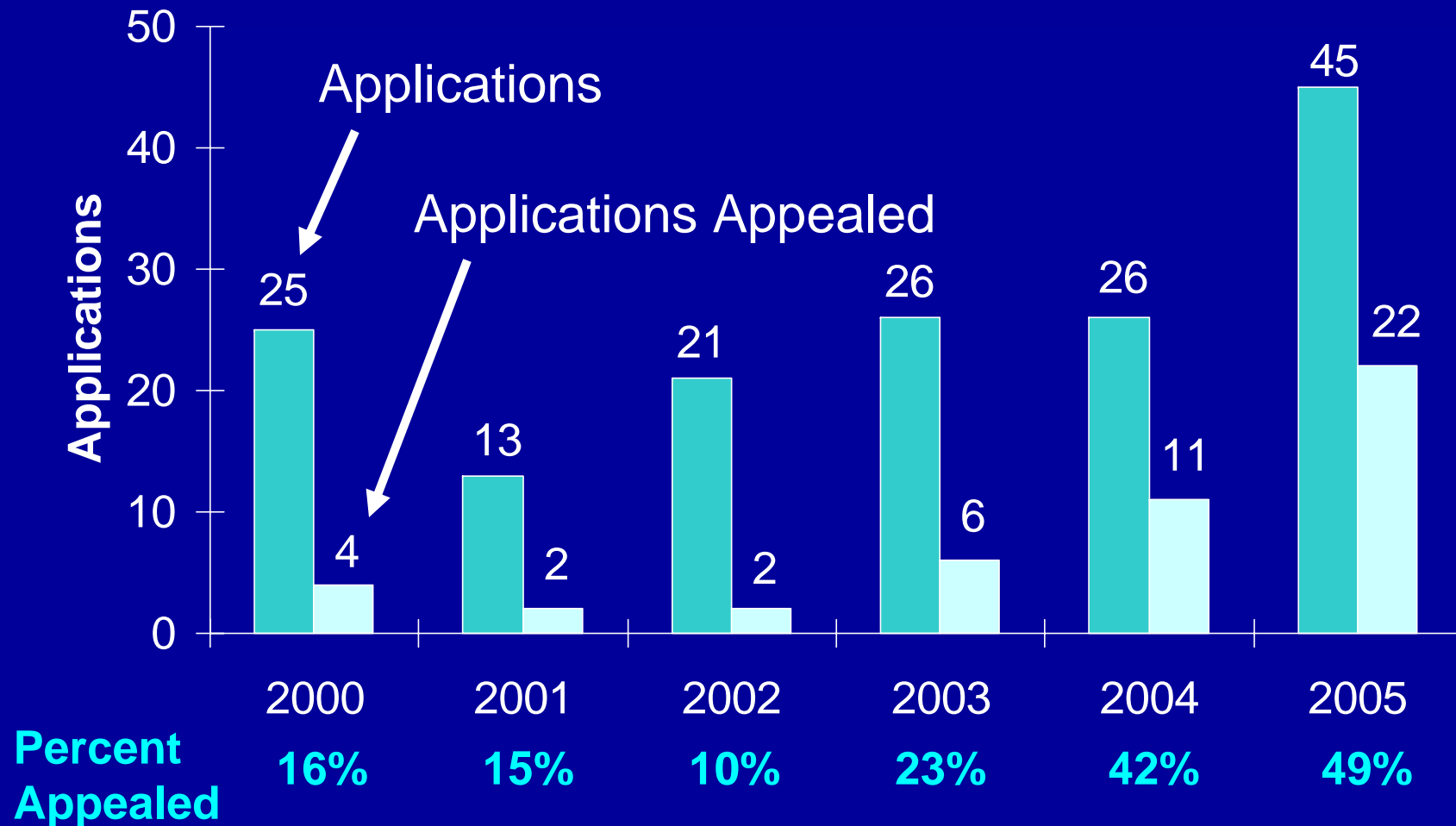
Consistency of Decisions with Each Other?

- Difficult to determine consistency of decisions because:
 - Many differences among proposed projects
 - Lack of electronic historical data on applications
- No signs of inconsistency in decisions on JLARC case study applications
- A low number of decisions overturned by a judge

Appeal Rates for 2000-2005 Vary by Project Type



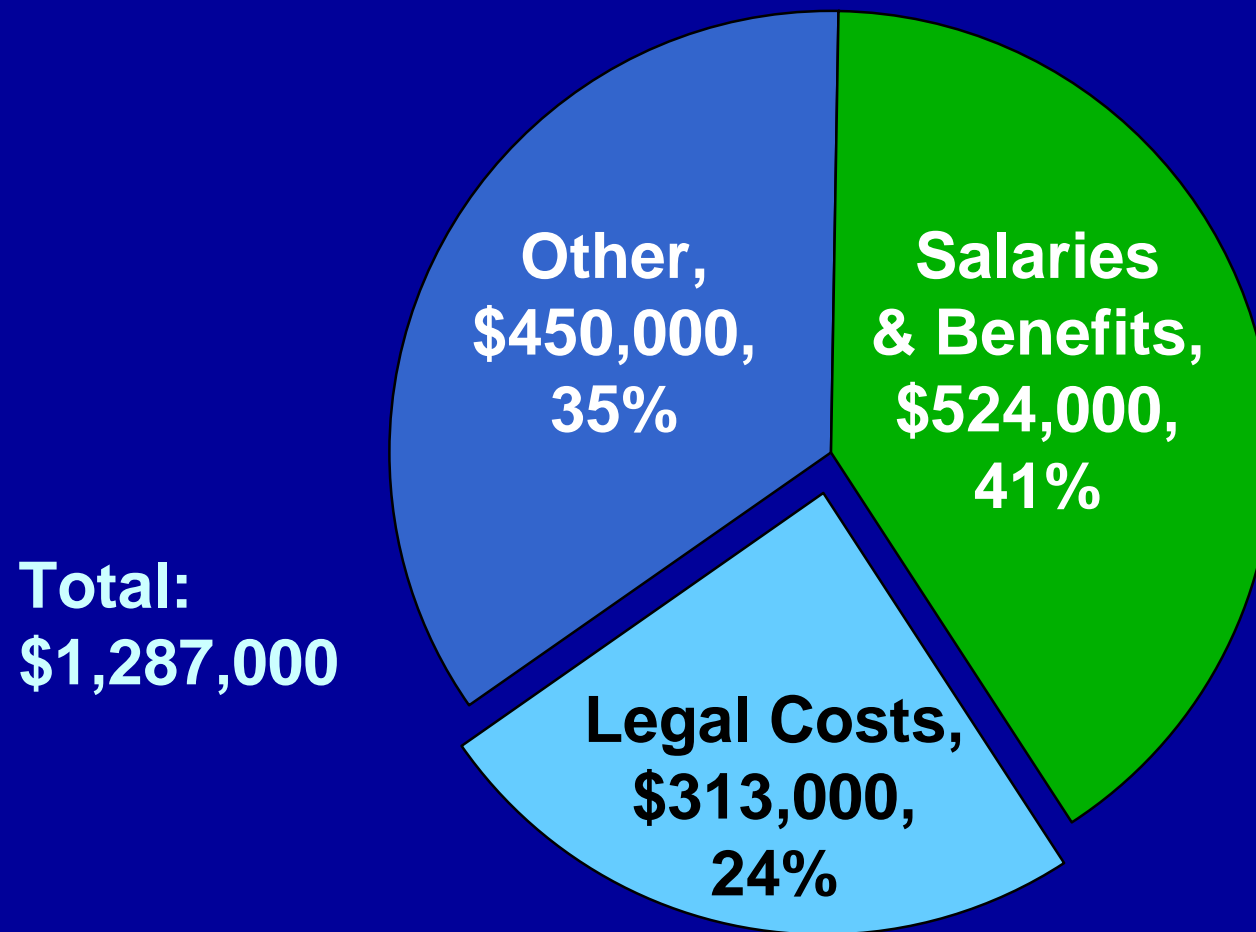
Appeal Rates Higher in 2004 and 2005



Why Did Appeals Increase in 2004 and 2005?

- No single explanation
- Different reasons for each year:
 - 2004: 8 of 11 appeals were of decisions to approve kidney dialysis centers. These approvals were appealed by competitors. 6 of these appeals have been withdrawn.
 - 2005: DOH denied 49% of applications, which is a higher denial rate than in previous years. 18 of the 22 appeals were of denials. These were appealed by applicants.

24% of 2003-2005 Expenditures for Appeals



Finding and Recommendation on Consistency of Decisions

Finding: There are some inconsistencies in analysis, but ultimate decisions do not appear to be inconsistent.

Recommendation: DOH should electronically track application reviews and issued decisions so they can use this information to perform regular and ongoing reviews of the consistency of their decisions.

DOH and OFM concur.

3rd Area of Findings and
Recommendations:
**Monitoring of Approved
Projects**

Monitoring Approved Projects

- Statute requires DOH to monitor approved projects to assure conformance with issued Certificates of Need.
- DOH only monitors **uncompleted** projects.
- Some conditions on Certificates of Need only apply once a project is **completed** but DOH does not monitor these conditions.
 - Example: Requirements that projects provide specified levels of charity care

Finding and Recommendation on Monitoring

Finding: DOH's monitoring of issued Certificates of Need does not fully comply with statute since it is limited to uncompleted projects.

Recommendation: DOH should revise its monitoring practices to include completed projects to ensure compliance with issued Certificates of Need.

DOH and OFM concur.

4th Area of Findings and
Recommendations:

**Measuring and Reporting
Program Performance**

Certificate of Need Program's Reporting

- Program has one performance measure: timeliness of decisions
- Program reports on current workload and recent decisions
 - Used by DOH for internal management
 - Monthly update mailed to subscribers who must pay to receive this status report

Finding and Recommendation on Reporting Performance

Finding: Program reports and application forms are not available on internet.

Recommendation: DOH should better use its website to make information available, including:

- Application forms;
- Status reports; and
- Performance data.

DOH and OFM concur.

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